

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

KING COUNTY, A WASHINGTON MUNICIPAL CORPORATION ,)	CASE NO.
)	
Plaintiff,)	COMPLAINT FOR
)	DECLARATORY RELIEF,
v.)	BREACH OF CONTRACT, BAD
)	FAITH, AND DAMAGES
FEDERAL INSURANCE COMPANY,)	(JURY DEMAND)
)	
Defendant.)	
)	

PARTIES

1.1 King County is a Washington Municipal Corporation.

1.2 Federal Insurance Company is an Indiana corporation, with its principle place of business in Indianapolis, Indiana.

JURISDICTION

2.1 The court has subject matter jurisdiction over this action for a declaratory judgment pursuant to 28 U.S.C. § 2201, because an actual justiciable controversy exists between the parties within the court's jurisdiction, as described more fully herein.

2.2 The court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because the amount in controversy exceeds \$75,000 and the action is between citizens of different states. The jurisdiction amount is satisfied because, as described more fully herein, King County seeks to recover the costs of defending the "Underlying Action" (defined below), the cost of which

1 exceeds, and the County seeks a judgment herein declaring that King County is entitled to
2 indemnity from Federal Insurance Company for any liability the County may have for any
3 judgment entered against it in the Underlying Action, or for any reasonable settlement of that
4 Action to which the County agrees. The amount of damages being claimed in the Underlying
5 Action, for which King County seeks a declaration of coverage here, along with other damages,
6 exceeds \$75,000.

7 2.3 The court has personal jurisdiction over Federal Insurance Company because it is an insurer
8 authorized to do, and does, business in the State of Washington.

9 2.4 Venue is proper pursuant to 28 U.S.C. § 1391(a) because the events from which the
10 “Underlying Action” action arose took place in King County, Washington, which is within the
11 judicial district of the United States District Court for the Western District of Washington at
12 Seattle.

13 FACTS

14 3.1 King County, Department of Adult and Juvenile Detention, entered into a contract
15 (hereinafter “the Underlying Contract”) with Keefe Commissary Network (“Keefe”). The
16 Underlying Contract required that Keefe: “procure and maintain for the duration of this Contract,
17 insurance against claims for injuries to persons ... that may arise from, or in connection with, the
18 performance of work hereunder by [Keefe], its agents, representative, employees, and/or
19 subcontractors.” The Underlying Contract required that “[c]overage shall be at least as broad as
20 General Liability: Insurance Services Office form number (CG 00 01) covering COMMERCIAL
21 GENERAL LIABILITY including Products and Completed Operations.” It also required that Keefe
22 “maintain limits no less than: General Liability: \$1,000,000 combined single limit per occurrence
23 for bodily injury” Further, the contract required that the “insurance coverage(s) required in
24 this Contract are to contain, or be endorsed to contain ... The County, its officers, officials,
25 employees, and agents are to be covered as additional insureds as respects liability arising out of
26 activities performed by or on behalf of [Keefe] in connection with this contract.”
27

1 3.2 Defendant Federal Insurance Company issued policy no. 733210090, effective
2 December 1, 2015 to December 1, 2016 ("The Policy"), to Keefe. King County is an additional
3 insured under The Policy.

4 3.3 Under the Underlying Contract, entitled "Contract for Miscellaneous Services," Keefe was
5 to "provide Commissary, Vending and Inmate Financial Services," as more fully detailed in the
6 Underlying Contract.

7 3.4 In June 2019, King County and its Department of Juvenile Detention was sued by Kris
8 Root, an employee of Keefe, *i.e.*, the "Underlying Action," to which Pierce County Cause No. 19-
9 2-08718-3 is assigned. Mr. Root alleged that on or around June 24, 2016, he was "lawfully on the
10 premises of the King County jail in Kent while in the course of his business of delivering
11 commissary goods." He further claims that while "making his delivery, he slipped and fell on a
12 defective and otherwise slippery loading dock/loading ramp." Mr. Root claims his fall caused him
13 bodily injury and damages.

14 3.5 In January 2020, again in February 2020, and again in April 2020, King County tendered
15 the Underlying Action to Federal Insurance Company as an additional insured under The Policy.
16 Each time the tender was delivered to Federal Insurance Company's Claims Service Center via
17 Certified Mail. Each time King County received a signed return receipt from Federal, indicating
18 that Federal had received the County's tender.

19 3.6 To date, Federal Insurance Company has not answered or otherwise responded to King
20 County's written tenders requesting defense and indemnity for the Underlying Action.

21 3.7 Also by letter dated April 30, 2020, King County provided notice to Washington's Office
22 of Insurance Commissioner under RCW 48.30.015.

23
24 CLAIMS FOR RELIEF
DECLARATORY JUDGMENT

25 4.1 The foregoing allegations are incorporated by reference.
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1 4.2 An actual controversy exists between King County and Federal Insurance Company
2 concerning Federal's failure to honor its defense obligation to King County as an additional
3 insured, to appoint defense counsel, and to pay for and otherwise cover King County's defense
4 expenses in the Underlying Action. King County is entitled to a declaration regarding Federal
5 Insurance Company's obligations to provide a defense to King County in the Underlying Action.

6 4.3 An actual controversy also exists between King County and Federal Insurance Company
7 because Federal has failed to acknowledge it has an indemnity obligation to King County for the
8 Underlying Action. King County is entitled to a declaration regarding Federal Insurance
9 Company's obligations to indemnify King County for any judgment or settlement for which King
10 County is liable in the Underlying Action.

11 4.4 King County also seeks a declaration that Federal Insurance Company's acts, omissions,
12 and breaches cannot be excused, and it is estopped from denying coverage for all defense expenses
13 incurred by King County in the Underlying Action; and that Federal is also estopped from
14 disclaiming any obligation to pay for any judgment or settlement for which the County may be
15 liable in the Underlying Action.

16 BREACH OF CONTRACT

17 5.1 The foregoing allegations are incorporated by reference.

18 5.2 Federal Insurance Company has a contractual obligation to King County as its additional
19 insured that includes, but is not limited to, the duty to defend King County in Underlying Action.

20 5.3 By failing to timely accept King County's tender of defense, and by otherwise not
21 responding to communications from King County, Federal Insurance Company has breached its
22 contractual obligations to King County, including the implied duty of good faith and fair dealing
23 that it owes King County as its additional insured.

24 5.4 Such breach has caused damage to King County that includes, but is not limited to, the
25 fees, costs and expenses King County has incurred in the Underlying Action.
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BAD FAITH

6.1 The foregoing allegations are incorporated by reference.

6.2 Federal Insurance Company has a tort duty to King County as an additional insured that includes, but is not limited to, the obligation act in good faith and deal fairly with King County.

6.3 By failing to respond at all to King County's multiple tenders of defense, Federal Insurance Company has breached its duty of good faith and therefore has engaged in bad faith. As a result, Federal Insurance Company is or may be estopped from denying coverage to King County for the claims asserted against it in the Underlying Action.

IFCA

7.1 The foregoing allegations are incorporated by reference.

7.2 Federal Insurance Company has unreasonably denied a claim for coverage or payment of benefits as described in RCW 48.30.015(1). Federal also has violated at least two of the WAC regulations enumerated under RCW 48.30.015(5), including but may not be limited to: (5)(c) "failure to acknowledge pertinent communications" and (5)(d) "standards for prompt investigation of claims."

7.3 Such conduct entitles King County to its fees and expenses in this action and up to three times its actual damages, to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, King County prays for the following relief:

1. For a declaration consistent with the allegations herein;
2. For an award of all money damages legally available due to Federal Insurance Company's breaches, acts, and omissions;
3. For an award of pre- and post-judgment interest at the maximum rate/s allowed by law;
4. For an award of attorney's fees and other costs of litigation recoverable under applicable statutes and common law, including but not limited to RCW 48.30.015;
5. For treble damages under RCW 48.30.015; and

1 6. For all such other relief this Court deems just and equitable.
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3 Dated this 6th day of August 2020.
4

5 s/ Jacquelyn A. Beatty
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